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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,126	05/10/2007	Jochen Strenkert	095309.57890US	3911
23911 7590 07/02/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER WALTERS, JOHN DANIEL	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 07/02/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,126

Applicant(s)

STRENKERT, JOCHEN

Examiner

JOHN D. WALTERS

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 20060623

DETAILED ACTION

Claims 1 - 7 and 9 have been examined. Claim 8 has been canceled by Applicant.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the speed change rate" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 - 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Muto et al. (6,332,450). Muto discloses a throttle control apparatus for an internal combustion engine comprising:

- an apparatus for controlling activation of an adjustable drive unit of a motor vehicle (Fig. 1, item ECU);
- said apparatus being dependent upon at least one control signal (Fig. 2);
- wherein, during a constant driving mode, a virtual control signal is generated in addition to a real control signal (column 2, lines 29 - 35);
- wherein said drive unit is activated dependent upon said virtual control signal instead of said real control signal (column 2, lines 36 - 48);
- wherein said apparatus maintains a constant driving force of said motor vehicle through an appropriate selection of said control signals (column 2, lines 55 - 62);
- a unit for determining a constant virtual control signal (column 7, lines 62 - 67);
- wherein said unit switches said constant driving mode off when a speed change rate of said real control signal exceeds a set interval (column 4, lines 57 - 61);
- wherein said drive unit is continuously adjustable (column 6, lines 39 - 53);
- wherein determination of said virtual control signal depends upon a real control signal at a switch point of said constant driving mode (column 3, lines 52 - 60);
- wherein said virtual control signal is equal to said real control signal at said switch point (column 5, lines 13 - 21);

- wherein said apparatus switches said constant driving mode on and off dependent upon a time course of said rear control signal (Figs. 4A - 4D).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Lardy et al. (5,540,632) disclose a control process and control arrangement for a continuously variable speed transmission;
- Kresse (5,775,293) discloses an electronic throttle pedal nonlinear filter;
- Ishizu (6,002,979) discloses a traction control system for automotive vehicles;
- Irie et al. (6,497,298) disclose a vehicle traction control system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN D. WALTERS whose telephone number is (571)272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John D. Walters
Examiner
Art Unit 3618

/John D. Walters/
Examiner, Art Unit 3618